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REMARKS

The Office action has been carefully considered. The Office action rejected claims 1-4, 6-8, 10-13, and 25-35 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,324,580 B1 to Jindal et al. ("Jindal") in view of U.S. Patent No. 6,701,323 B2 to Sashino et al. ("Sashino") and in further view of U.S. Patent No. 6,839,723 to Sugimoto et al. ("Sugimoto"). Further, the Office action rejected claims 5 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Jindal in view of Sashino and Sugimoto and in further view of U.S. Patent No 5,987,504 to Toga et al. ("Toga"). Further yet, the Office action rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Jindal in view of Sashino and Sugimoto and in further view of U.S. Patent No 6,839,723 to Choquier et al. ("Choquier"). Still further, the Office action rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Jindal in view of Sashino and Sugimoto and in further view of U.S. Patent No 6,789,105 B2 to Ludwig et al. ("Ludwig"). Still further yet, the Office action rejected claims 16 and 36-40 under 35 U.S.C. § 103(a) as being unpatentable over Jindal in view of Sashino and Sugimoto and in further view of *Exotica: A Project on Advanced Transaction Management and Workflow System* by C. Mohan. ("Mohan"). The Office action rejected claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Jindal in view of Sashino, Sugimoto, and Mohan and in further view of U.S. Patent No 5,978,381 to Perlman et al. ("Perlman"). The Office action rejected claims 42-47 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,125,394 to Rabinovich et al. ("Rabinovich") in view of Jindal. The Office action rejected claim 48 under 35 U.S.C. § 103(a) as

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being unpatentable over Rabinovich in view of Jindal and in further view of

Sugimoto. The Office action rejected claims 17 and 19-24 under 35 U.S.C. §

103(a) as being unpatentable over Rabinovich in view of Sashino. Finally, the

Office action rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable

over Rabinovich in view of Sashino and in further view of Mohan. Applicants

respectfully disagree.

By present amendment, claims 1, 17, 25, 38, and 42 have been amended

for clarification and not in view of the prior art. Applicants submit that the claims as

filed were patentable over the prior art of record, and that the amendments herein

are for purposes of clarifying the claims and/or for expediting allowance of the

claims and not for reasons related to patentability. Reconsideration is respectfully

requested.

Prior to discussing reasons why applicants believe that the claims in this

application are clearly allowable in view of the teachings of the cited and applied

references, a brief description of the present invention is presented.

The present invention is directed to a multiple device management method

and system. The system may include a mechanism to execute a single command

on one controller computer that may then invoke actions on one or more other

controlled computers, typically referred to as nodes. An operation may comprise

the execution of a scripted set of commands, execution of a binary program, or a

number of other types of operations. The mechanism may work with unique sets of

computers as if they were a single computer, whereby, for example, management

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of computing devices is greatly simplified, and the cost of managing computing devices in a data center is significantly reduced.

In one implementation, the present invention may provide an architecture comprising a controller on one computer that may manage multiple other computers, each containing agent software allowing each respective controlled computer to be managed by the controller. In general, the controller provides a central representation of the multiple nodes managed thereby, from which actions can be initiated against the nodes, which may be selected individually or by sets to which the nodes may be assigned. The controller may communicate with the nodes using a messaging format, such as one derived from XML (eXtensible Markup Language), using a replaceable underlying transport layer for network communication.

In this manner, the controller may provide a defined way to represent available nodes in a data center, their organization into sets, and the results of ongoing and completed operations. For example, a schema may be used to persist the representation of the available nodes, and sets of nodes (e.g., as grouped together by an administrator typically according to some criterion, such as administrative convenience, operational purposes or other criteria). The schema may also be used to store a record of the results of each action on a storage device accessible to the controller, along with pending and performed operations, and jobs.

Note that the above description is for example and informational purposes only, and should not be used to interpret the claims, which are discussed below.

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Turning to the claims, claim 1 generally recites a method in a computer network, comprising, maintaining a plurality of unique sets at a controller, each set comprising a grouping of at least one computing device, providing at the controller a selection corresponding to at least one computing device, providing at the controller a job corresponding to at least one operation to perform on the selection, sending a message from the controller to each computing device in the selection, the message instructing the computing device that receives the message to execute the job, and at the controller, storing results of the job from each computing device in the selection.

The Office action rejected claim 1 under §103(a) as being unpatentable over Jindal in view of Sashino and in further view of Sugimoto. More specifically, the Office action contends that Jindal teaches a controller (referencing the Nameserver at column 5, lines 26-30/50-54 of Jindal), a plurality of sets, (referencing server farm 400 at column 8, lines 55-65 of Jindal), a set comprising a grouping of at least one computing device (referencing server 402 at column 8, lines 58-62 of Jindal), maintaining at least one set at the controller (referencing column 8, lines 55-63 and column 9, lines 11-16 of Jindal), providing at the controller a selection corresponding to at least one computing device (referencing column 5, lines 26-30/50-54 of Jindal).

The Office action concedes that Jindal fails to teach providing at the controller, a job corresponding to at least one operation to perform on the selection, sending a message from the controller to each computing device in the selection, the message instructing the computing device that receives the message to

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execute the job, and at the controller, storing results of the job from each

computing device in the selection. However, the Office action contends that

Sashino does teach providing at the controller, a job corresponding to at least one

operation to perform on the selection (referencing column 5, lines 49-50 and

column 10, lines 59-54 of Sashino), sending a message from the controller to each

computing device in the selection, the message instructing the computing device

that receives the message to execute the job (referencing column 8, lines 6-10,

column 3, lines 50-55, and column 10, lines 38-41 of Sashino). Further, the Office

action allges that Sugimoto does teach storing results of the job from each

computing device in the selection (referencing column 12, lines 12-15). The Office

action concludes that it would have been obvious to a person skilled in the art at

the time of the invention to have combined the teachings of Jindal, Sashino, and

Sugimoto because Sugimoto's store feature would provide flexibility to Jindal's and

Sashino's systems by allowing users to save information for use later. Applicants

respectfully disagree.

To establish *prima facie* obviousness of a claimed invention, all of the claim

recitations must be taught or suggested by the prior art; (*In re Royka*, 490 F.2d

981, 180 USPQ 580 (CCPA 1974)), and "all words in a claim must be considered in

judging the patentability of that claim against the prior art;" (*In re Wilson*, 424 F.2d

1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). Further, if prior art, in any

material respect teaches away from the claimed invention, the art cannot be used

to support an obviousness rejection. *In re Geisler*, 116 F.3d 1465, 1471, 43

USPQ2d 1362, 1366 (Fed Cir. 1997). Moreover, if a modification would render a

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reference unsatisfactory for its intended purpose, the suggested modification /

combination is impermissible. See MPEP § 2143.01.

Applicants submit that the Office action has failed to establish a *prima facie*

case for obviousness. As argued in the previous Office action response, the cited

and applied references still represent a mismatch of essentially non-analogous

prior art with little correlation to each other, from which the Office action merely

picks out phrases as examples for an obviousness argument More specifically,

with regard to claim 1, the cited and applied references do not teach applicants'

invention as claimed. Instead of considering all of the words of claim 1 in their

context, the Office action merely picks out phrases from applicants' recitations and

cites various references as allegedly prior art. The mere fact that references can

be combined or modified does not render the resultant combination obvious unless

the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d

680, 16 USPQ2d 1430 (Fed. Cir. 1990).

For example, Jindal is directed to a system and method for load balancing

among replicated servers when access requests are received at a Nameserver

connected to a plurality of identical servers (or identical sets of servers). With

regard to claim 1, the Office action cites Jindal as an example of prior art that

teaches a controller coupled to nodes which represent computing devices, *i.e.*, the

first three recitations of claim 1. Claim elements cannot be interpreted in a vacuum

and are afforded the context by which the entire claim reads as a whole. Merely

picking and choosing various prior art elements to construct an obviousness

rejection is not permissible at law. While Jindal may teach the use of a

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Nameserver that is able to load balance requests among a plurality of replicated

servers, load balancing of requests is not the purpose for which multiple sets of

computing devices are managed in the present invention.

Together with Sashino (which is cited merely an example of sending a

message that may cause execution of a job) and Sugimoto (which is cited merely

as an example of storing returned messages), the Office action seems to paste

together several cites from unrelated references to arrive at an obviousness

conclusion. A statement that modifications of the prior art to meet the claimed

invention would have been "well within the ordinary skill of the art at the time the

claimed invention was made" is not sufficient to establish a *prima facie* case of

obviousness without some objective reason to combine the teachings of the

references. *Ex parte Levengood,* 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

Furthermore, applicants maintain that the Office action is employing

hindsight reasoning to arrive at an obviousness conclusion. As a matter of law,

obviousness may not be established using hindsight obtained in view of the

teachings or suggestions of the applicants. *W.L. Gore & Assocs., Inc. v. Garlock,*

Inc., 721 F.2d 1540, 1551, 1553, 220 USPQ 303, 311, 312-13 (Fed. Cir. 1983),

cert. denied, 469 U.S. 851 (1984). To guard against the use of such impermissible

hindsight, obviousness needs to be determined by ascertaining whether the

applicable prior art contains any suggestion or motivation for making the

modifications in the design of the prior art article in order to produce the claimed

design. The mere possibility that a prior art teaching could be modified or

combined such that its use would lead to the particular limitations recited in a claim

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does not make the recited limitation obvious, unless the prior art suggests the

desirability of such a modification. *See In re Gordon,* 733 F.2d 900, 902, 221

USPQ 1125, 1127 (Fed. Cir. 1984).

Notwithstanding the failure to establish a *prima facie* case for obviousness,

applicants have amended claim 1 to recite a plurality of unique sets. Surely, Jindal

does not teach that its server farms are unique; the very nature of the system is to

balance requests between *replicated* servers. Thus, Jindal cannot possibly be

construed to teach a plurality of unique sets. No other prior art of record remedies

this deficiency. Applicants submit that claim 1 is allowable over the prior art of

record for at least these reasons.

Applicants respectfully submit that dependent claims 2-4, 6-8, and 10-13, by

similar analysis, are allowable. Each of these claims depends either directly or

indirectly from claim 1 and consequently includes the recitations of independent

claim 1. As discussed above, Jindal, Sashino, and Sugimoto, whether considered

alone or in any permissible combination at law, fail to teach or suggest the

recitations of claim 1 and therefore these claims are also allowable over the prior

art of record. In addition to the recitations of claim 1 noted above, each of these

dependent claims includes additional patentable elements.

The Office action rejected claims 5 and 9 as being unpatentable over the

combination of the teachings of Jindal, Sashino, Sugimoto, and Toga. Applicants

again maintain that a *prima facie* case for obviousness has not been established.

Rather, the same fallible argument is presented wherein yet another reference

(Toga) is cited as allegedly teaching a phrase of the claim language (using a

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network address) but lacks the motivation to be combined with other references.

As discussed above, Jindal, Sashino, and Sugimoto, whether considered alone or

in any permissible combination at law, fail to teach or suggest the recitations of

claim 1 and therefore these claims are also allowable over the prior art of record.

Simply citing Toga does not remedy the shortcomings of the teachings of the prior

art of record nor provides any motivation whatsoever for combining the prior art of

record. Applicants submit that claims 5 and 9 are allowable over the cited prior art

for at least these reasons.

The Office action rejected claim 14 as being unpatentable over the

combination of the teachings of four references, namely Jindal, Sashino, Sugimoto,

and Chocquier. The Office action also rejected claim 15 as being unpatentable

over the combination of the teachings of Jindal, Sashino, Sugimoto, and Ludwig.

Further, the Office action rejected claim 16 as being unpatentable over the

combination of the teachings of Jindal, Sashino, Sugimoto, and Mohan. Applicants

again maintain that a *prima facie* case for obviousness has not been established

for each of these rejections. Rather, the same fallible argument is presented

wherein yet another reference (Chocquier for claim 14, Ludwig for claim 15, and

Mohan for claim 16) is cited as allegedly teaching a phrase of applicants' claim

language (setting a threshold level as recited in claim 14, storing data in a storage

as recited in claim 15, and persisting data as recited in claim 16) but lacks the

motivation to be combined with other references. As discussed above, Jindal,

Sashino, and Sugimoto, whether considered alone or in any permissible

combination at law, fail to teach or suggest the recitations of claim 1 and therefore

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these dependent claims are also allowable over the prior art of record. Simply

citing Chocquier, Ludwig, or Mohan does not remedy the shortcomings of the

teachings of the prior art of record nor provides any motivation for combining the

prior art of record. Applicants submit that claims 14, 15, and 16 are allowable over

the prior art for at least these reasons.

Turning to the next independent claim, amended claim 17 recites in a

computer network, a data structure comprising a schema, the schema configured

to enable a plurality of unique sets of computing nodes to be controlled by a

controller computer, the schema including a plurality of device objects, each device

object identifying a computing node capable of being controlled by the controller, at

least one set object, each set object identifying a group of at least one computing

node identified by a device object, and a job object, the job object specifying data

corresponding to an operation to be executed by each computing node grouped

together via a set object.

The Office action rejected claim 17 as unpatentable over Rabinovich in view

of Sashino. Specifically, the Office action contends that Rabinovich teaches a

controller (citing a selection unit described in column 2, lines 54-58 and column 4,

lines 39-44 of Rabinovich), a plurality of computing nodes (citing column 2, lines

49-52 of Rabinovich), a job (citing a task described in column 1, lines 22-23 and

column 5, lines 26-29 of Rabinovich), and a job object, the job object specifying

data corresponding to an operation to be executed (citing column 1, lines 22-23

and column 5, lines 26-29 of Rabinovich).

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       The Office action acknowledges that Rabinovich does not teach each device object identifying a computing node capable of being controlled by the controller, or a schema wherein the schema is configured to enable a plurality of computing nodes to be controlled by a controller computer, such that the schema includes a plurality of device objects. However, the Office action contends that Sashino does teach these recitations and cites column 2, lines 50-55, column 4, lines 40-56, and column 10, lines 59-64 of Sashino. The Office action concludes that the recitations of claim 17 would have been obvious to a person skilled in the art at the time the invention was made because the teachings of Sashino would improve the system of Rabinovich by allowing load balancing. Applicants respectfully disagree.

       Applicants submit that the Office action has failed to establish a *prima facie* case for obviousness. As discussed above regarding claim 1, the cited and applied references represent a mismatch of essentially non-analogous prior art with little correlation to each other, from which the Office action merely picks out phrases as alleged examples for an obviousness argument. More specifically with regard to claim 17, the cited and applied references do not teach applicants' invention as claimed. Instead of considering all of the words of claim 17, the Office action merely relies on phrases from applicants' recitations, and using applicants' teachings as a guide, cites various references as allegedly prior art.

       In addition to the reasons discussed above, applicants submit that the prior art of record fails to teach or suggest maintaining a plurality of sets at a controller, each set comprising a grouping of at least one computing device. The Office action apparently was persuaded by this argument in a previous Office action

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response, given that Jindal was introduced with regard to each of the other

independent claims, but for claim 17. As such applicants maintain that Rabinovich

only appears to teach a single set of resources that may be organized and

maintained by a resource manager. Together with the remaining recitations of

claims 17, nowhere in any prior art of record can there be found any teaching or

suggestion of maintaining a plurality of sets at a controller, providing a selection,

providing a job corresponding to at least one operation to perform on the selection,

sending a message to execute the job, and storing results of the job, as is recited

in claim 17.

Notwithstanding these clear differences, claim 17 has been amended to

recite a schema configured to enable a plurality of unique sets of computing nodes

to be controlled by a controller computer. The Office action has characterized a

schema taught by Sashino as disclosing this recitation. Simply reciting the word

schema doers not teach a particular schema for accomplishing a particular

arrangement of data. Sashino does not teach a schema configured to enable a

plurality of unique sets of computing nodes to be controlled by a controller

computer. Furthermore, as already pointed out, no prior art of record teaches a

plurality of sets of computer nodes wherein the sets of computer nodes are unique.

Simply put, the prior art of record, in any permissible combination at law, does not

teach or suggest the recitations of clam 17 and applicants submit that for at least

the foregoing reasons that claim 17 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 19-24, by similar

analysis, are allowable. Each of these claims depends either directly or indirectly

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from claim 17 and consequently includes the recitations of independent claim 17. As discussed above, Rabinovich and Sashino, whether considered alone or in any permissible combination at law, fail to teach or suggest the recitations of claim 17, and therefore these dependent claims are also allowable over the prior art of record. In addition to the recitations of claim 17 noted above, each of these dependent claims includes additional patentable elements.

The Office action rejected claim 18 as being unpatentable over the combination of the teachings of Rabinovich, Sashino, Sugimoto, and Mohan. Applicants again maintain that a *prima facie* case for obviousness has not been established. Rather, the same fallible argument is presented wherein yet another reference (Mohan) is cited as teaching a phrase of applicants' claim language (persisting data) but lacks the motivation to be combined with other references. As discussed above, Rabinovich and Sashino, whether considered alone or in any permissible combination at law, fail to teach or suggest the recitations of claim 17, and therefore dependent claim 18 is also allowable over the prior art of record. Simply citing Mohan does not remedy the shortcomings of the teachings of the prior art of record nor provides motivation for combining the prior art of record. Applicants submit that claim 18 is allowable over the prior art for at least these reasons.

Turning to the next independent claim, amended claim 25 recites in a computer network, a system, comprising a controller, the controller configured to receive a selection corresponding to at least one node among a plurality of unique nodes, a node identified in the selection, the node including agent software

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connected for communication with controller software on the controller, a job

maintained by the controller, the job corresponding to at least one operation to

perform on the selection, a transport configured to communicate a message

containing data corresponding to the job from the controller software to the agent

software of the node, the message instructing the agent software to execute the

job, the agent software of the node executing the job and returning results to the

controller in response to receiving the message, and a data store at the controller,

the controller storing the results from the agent software in the data store.

The Office action rejected claim 25 as unpatentable over Jindal in view of

Sashino and in further view of Sugimoto. Specifically, the Office action cites the

same rationale for the rejection of claim 25 as was discussed above with respect to

the rejections of claim 1. Applicants respectfully disagree.

Applicants submit that the Office action has failed to establish a *prima facie*

case for obviousness. As discussed above regarding claims 1, the cited and

applied references represent a mismatch of unrelated prior art with little correlation

to each other, from which the Office action picks out phrases as alleged examples

for an obviousness argument. More specifically with regard to claim 25, the cited

and applied references do not teach applicants' invention as claimed. Instead of

considering all of the words of claim 25, the Office action merely uses applicants'

teachings and claim element recitations as a guide to cite various references as

allegedly prior art.

In addition to the reasons discussed above regarding claims 1 and 17,

applicants submit that the prior art of record fails to teach or suggest a controller

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configured to receive a selection corresponding to at least one node among a plurality of nodes. Jindal only teaches a set of resources that are replicas of each other. Replicated servers are not unique. Applicants submit that claim 25 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 26-37, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 25 and consequently includes the recitations of independent claim 25. As discussed above, Jindal, Sashino, and Sugimoto, whether considered alone or in any permissible combination at law, fail to teach or suggest the recitations of claim 25 and therefore these claims are also allowable over the prior art of record. Even if somehow permissible to introduce the teachings of Rabinovich, as is contended in the rejection of claims 36 and 37, the mere combination of yet another reference still fails to teach or suggest the recitations of claims 36 and 37 no matter the permissible combination at law. In addition to the recitations of claim 25 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, amended claim 38 recites in a computer network, a method comprising selecting, as a selected set among a plurality of unique sets, a set comprising a plurality of computing devices, and instructing a controller to perform an operation to the set, the controller communicating with each computing device in the set to request performance of the operation and receive a result of the requested operation, the controller logging the result.

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The Office action rejected claim 38 as unpatentable over another set of four references, namely Jindal in view of Sashino and Sugimoto and in further view of Mohan. Specifically, the Office action cites the same rationale for the rejection of claim 25 as was discussed above with respect to the rejections of claim 1. Applicants respectfully disagree.

Applicants submit that the Office action has failed to establish a *prima facie* case for obviousness. As discussed above regarding claims 1, 17, and 25, the cited and applied references represent a mismatch of prior art with little correlation to each other, from which the Office action picks out phrases as examples for an obviousness argument. More specifically with regard to claim 38, the cited and applied references do not teach applicants' invention as claimed. Instead of considering all of the words of claim 38, the Office action merely uses phrases from applicants' recitations and cites various references as allegedly prior art.

Jindal is merely an example system of applying a load balancing algorithm to a server farm of server systems that are replicated. Replicated servers are not unique, and the solution taught by Jindal is directed to an entirely different problem than that which is solved by the present invention.

Furthermore, applicants maintain that the Office action is employing hindsight reasoning to arrive at an obviousness conclusion. As a matter of law, obviousness may not be established using hindsight obtained in view of the teachings or suggestions of the applicants. *W.L. Gore & Assocs., Inc. v. Garlock, Inc.,* 721 F.2d 1540, 1551, 1553, 220 USPQ 303, 311, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). To guard against the use of such impermissible

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hindsight, obviousness needs to be determined by ascertaining whether the

applicable prior art contains any suggestion or motivation for making the

modifications in the design of the prior art article in order to produce the claimed

design. The mere possibility that a prior art teaching could be modified or

combined such that its use would lead to the particular limitations recited in a claim

does not make the recited limitation obvious, unless the prior art suggests the

desirability of such a modification. *See In re Gordon*, 733 F.2d 900, 902, 221

USPQ 1125, 1127 (Fed. Cir. 1984). Such references, wholly unrelated to one

another as well as to the claimed invention, clearly do not suggest such a

modification.

Applicants respectfully submit that dependent claims 39-40, by similar

analysis, are allowable. Each of these claims depends directly from claim 38 and

consequently includes the recitations of independent claim 38. As discussed

above, Jindal, Sashino, Sugimoto, and Mohan whether considered alone or in any

permissible combination at law, fail to teach or suggest the recitations of claim 38

and therefore these dependent claims are also allowable over the prior art of

record. In addition to the recitations of claim 38 noted above, each of these

dependent claims includes additional patentable elements.

The Office action rejected claim 41 as being unpatentable over the

combination of the teachings of *five* references, namely Jindal, Sashino, Sugimoto,

Mohan, and Perlman. Applicants again maintain that a *prima facie* case for

obviousness has not been established. Rather, the same fallible argument is

presented wherein yet another reference (Perlman) is cited as teaching a phrase of

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applicants' claim language (storing data in a storage and retrying failed operations)
but each lacks the motivation to be combined with other references. As discussed
above, Jindal, Sashino, Sugimoto, and Mohan whether considered alone or in any
permissible combination at law, fail to teach or suggest the recitations of claim 38
and therefore dependent claim 41 is also allowable over the prior art of record.
Simply citing Mohan and Perlman does not remedy the shortcomings of the
teachings of the prior art of record nor provides motivation for combining the prior
art of record. Applicants submit that claim 41 is allowable over the prior art for at
least these reasons.

Turning to the last independent claim, amended claim 42 recites in a
computer network, a method comprising defining a plurality of unique sets, editing
at least one set to add at least one controlled computing device to the set, storing
the set, and at the controller, using the set to control each controlled computing
device of the set.

The Office action rejected claim 42 as unpatentable over Rabinovich in view
of Jindal. Specifically, the Office action contends that Rabinovich teaches editing
at least one set to add at least one controlled computing device to the set, storing
the set, and at the controller, using the set to control each controlled computing
device of the set. Column 2, lines 65-67, column 4, lines 45-50, and column 5,
lines 4-8 of Rabinovich are referenced.

The Office action acknowledges that Rabinovich does not teach a plurality of
sets. However, as was the case with regard to claim 1 and others, the Office
action contends that Jindal does teach a plurality of sets. The Office action

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concludes that the recitations of claim 42 would have been obvious to a person skilled in the art at the time the invention was made because Jindal's plurality of sets would improve the system of Rabinovich. Applicants respectfully disagree.

Applicants submit that the Office action has failed to establish a *prima facie* case for obviousness. As was the case described above, the cited and applied references represent a mismatch of prior art with little correlation to each other, from which the Office action picks out phrases as examples for an obviousness argument. More specifically with regard to claim 42, the cited and applied references do not teach applicants' invention as claimed. Instead of considering all of the words of claim 42, the Office action impermissibly relies on phrases from applicants' teachings and recitations in order to stitch together phrases from various references to allege the obviousness rejection.

In addition to the reasons discussed above regarding claims 1 and 17, applicants submit that the prior art of record fails to teach or suggest defining a plurality of unique sets. Rabinovich certainly only teaches a single set of resources that may be organized and maintained by a resource manage and Jindal teaches replicated server farms. Applicants submit that claim 42 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 43-48, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 42 and consequently includes the recitations of independent claim 42. As discussed above, Rabinovich and Jindal, whether considered alone or in any permissible combination at law, fail to teach or suggest the recitations of claim 42

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and therefore these claims are also allowable over the prior art of record. In
addition to the recitations of claim 42 noted above, each of these dependent claims
includes additional patentable elements.

For at least these additional reasons, applicants submit that all the claims
are patentable over the prior art of record. Reconsideration and withdrawal of the
rejections in the Office action is respectfully requested and early allowance of this
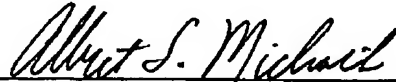application is earnestly solicited.

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CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-48 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment, along with transmittal and facsimile cover

sheet, are being transmitted by facsimile to the United States Patent and

Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: November 15, 2005

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Albert S. Michalik

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